

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1452 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

G.S.R.T.C.

Versus

HASAN AHMAD ADAM PATEL & ANR.

Appearance:

MR SM MAZGAONKER for Petitioner
MR HK RATHOD for Respondent No. 1
MR SAMIR DAVE for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/09/96

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The petitioner, Gujarat State Road Transport Corporation, filed this petition and challenge has been made therein to the order dated 31st May 1983 made by respondent No.2 in the proceedings initiated by the

Corporation u/s.33(1)(b) of the Industrial Disputes Act, 1947. A copy of this impugned order has been filed by the petitioner as annexure 'E'. On the alleged misconduct of not issuing tickets after collecting fare from passengers, a regular departmental inquiry was instituted against the respondent No.1-workman, working as a Conductor of the Corporation. The Inquiry Officer found the charges proved against the respondent-workman. He was given a second show cause notice and was given an opportunity to give further explanation. Under the order of the competent authority dated 20th November 1982, he was ordered to be dismissed from the services, but as the Union had given a strike notice, the approval to the dismissal was necessary under the provisions of Section 33 of the Industrial Disputes Act, 1947, the competent authority placed the respondent No.1 under suspension. Simultaneously, an application was also preferred before the Conciliation Officer. The Conciliation Officer, under its order dated 31st May 1983, impugned in this Special Civil Application, refused to grant approval as prayed by the petitioner.

3. The learned counsel for the petitioner does not dispute that the respondent No.1 was not paid any suspension allowance during the period of suspension. The learned counsel for the respondent contended that the workman was not paid suspension allowance during the period of suspension and the action of the petitioner to dismiss the workman was legally refused by Conciliation Officer by not approving the same. In support of this contention, the learned counsel for the respondent placed reliance on the decision of Supreme Court in the case of Fakirbhai Fulabhai Solanki v. Presiding Officer and Anr., reported in AIR 1986 SC 1168 and decision of this Court in the case of Gujarat State Road Transport Corporation v. C.V. Pandor and Anr., reported in 1991(1) GLH 593.

4. I have given my thoughtful considerations to the contentions made by the learned counsel for the parties.

5. In view of the admission of the learned counsel for the petitioner and the decisions of Supreme Court and this Court relied by the learned counsel for the respondent, no interference is to be made in the order passed by the Conciliation Officer refusing to grant approval of the dismissal of the workman. The payment of suspension allowance is a mandatory on the part of the Corporation pending the approval or sanction to dismiss the workman and this point is no more in res-integra.

6. In the result, this writ petition fails and the same is dismissed. Rule is discharged. No order as to costs.

.....

(sunil)